

HOUSE BILL No. 1311

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3-7.

Synopsis: PERF military service credit. Grants up to two years of service credit for active duty service in the United States armed forces to a member of the public employees' retirement fund: (1) who completes at least 20 years of full-time employment with the state; and (2) whose average annual compensation does not exceed \$50,000.

Effective: July 1, 2005.

Grubb, Alderman, Micon, Koch

January 11, 2005, read first time and referred to Committee on Employment and Labor.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1311

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves ~~his~~ **the member's** contributions in the fund;
- (3) except as provided in subsection (c), resumes service with ~~his~~ **the member's** employer within one hundred twenty (120) days after ~~his~~ **the member's** unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if ~~he~~ **the employee**:

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IN 1311—LS 6151/DI 102+



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(1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the employee's** unconditional discharge; and

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

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(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section **or section 5.5 of this chapter**. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 2. IC 5-10.3-7-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. (a) This section applies to members who retire after June 30, 2005.**

(b) Subject to IC 5-10.2-2-1.5, a member who meets the

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1 following conditions is entitled to receive the service credit
 2 described in subsection (c) for the member's active duty service in
 3 the United States armed forces:

4 (1) On the date of the member's retirement, the member has
 5 completed at least twenty (20) years as a full-time employee
 6 of the state.

7 (2) The member received an honorable discharge.

8 (3) The average of the annual compensation (as defined in
 9 IC 5-10.2-4-3) for the member does not exceed fifty thousand
 10 dollars (\$50,000).

11 (c) The amount of service credit that a member is entitled to
 12 receive under this section is equal to the lesser of:

13 (1) the period of the member's active duty service; or

14 (2) two (2) years.

15 (d) A member is entitled to service credit under this section only
 16 to the extent that the same period of active duty service is not used:

17 (1) to grant service credit under another section of this
 18 chapter or under IC 5-10.2-4; or

19 (2) by another governmental plan for purposes of the
 20 member's benefit in the other governmental plan.

21 (e) This section may not be construed as a restriction or
 22 limitation on any of the rights, benefits, and protections that a
 23 member is entitled to receive under the federal Uniformed Services
 24 Employment and Reemployment Rights Act (38 U.S.C. 4301 et
 25 seq.).

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